

affect the LECs would be eligible for exogenous treatment.⁸⁶ Similarly, although changes in generally accepted accounting principles (GAAP) are outside the carrier's control, the Commission stated that "[i]f a GAAP change is universal enough to be reflected in the inflation measure, exogenous cost treatment would result in double counting within the context of the PCI."⁸⁷ Therefore, we decided to accord exogenous treatment to GAAP changes (which have been adopted by the Financial Accounting Standards Board and have become effective) only if the costs are neither within the control of the price cap carriers nor reflected in the price cap formula.⁸⁸

ii. Discussion

63. The exogenous category of cost changes operates as an exception to the price cap requirement that cost changes do not alter the price cap index and its attendant incentives. While price cap regulation assumes that the LECs will take responsibility for how well or badly they manage their business, we judged they should not be held responsible for cost changes that were not of their choosing, were out of their control, and were not otherwise reflected in the price cap formula. In effect, we continued "cost plus" regulation in these cases.

64. The experience we have gained from using the exogenous cost mechanism leads us to believe that we should reduce the categories of cost changes eligible for exogenous treatment where this will improve price cap efficiency incentives. To some degree this is already happening as we complete the amortization of depreciation reserve deficiencies and inside wiring costs. In other cases, a tightening of the exogenous cost exceptions may be appropriate. For example, changes in Generally Accepted Accounting Principles (GAAP) are typically implemented in the Uniform System of Accounts (USOA) for telephone companies. However, a GAAP change may represent only a change in how books are kept and costs are recorded, not an economic cost change that might be expected to affect prices in competitive marketplaces.⁸⁹ In general, we believe that it would be more consistent with the incentives of a price cap plan to treat only economic cost changes as eligible for addition to the list of costs eligible for exogenous treatment. It should also be more consistent with one of the goals of price caps, to replicate the operation of competition. In the economy generally, one expects that accounting changes alone will not affect market-based prices. We request comment on whether we should narrow exogenous treatment of GAAP and USOA changes, for example, by limiting eligibility for exogenous treatment to economic cost changes. We request that

⁸⁶ LEC Price Cap Order, 5 FCC Rcd at 6808.

⁸⁷ LEC Price Cap Reconsideration Order, 6 FCC Rcd at 2665.

⁸⁸ Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," 8 FCC Rcd 1024, 1033 (1993) (OPEBs Order); see also Section 61.49(d)(1)(vi) of the Commission's Rules, 47 C.F.R. Section 61.49(d)(1)(vi) (exogenous treatment will also be accorded to "other extraordinary exogenous cost changes as the Commission shall permit or require[.]").

⁸⁹ See, e.g., OPEBs Order, 8 FCC Rcd 1024.

commenters be very specific in identifying their reasons for disagreeing with the view that eligibility for exogenous treatment should be limited to economic cost changes.

65. It may also be useful to clarify and narrow the circumstances in which we would find that a cost change has a "disproportionate impact" on LECs. Many changes of laws, rules, or judicial decisions will affect different sections of the economy in different ways. The effect of such changes may be difficult to identify or quantify, and it can be even more problematic to determine whether the change is disproportionate for LECs. Moreover, we are concerned that it may be difficult to be consistent, and to identify all relevant changes. The LECs generally initiate requests for exogenous cost changes and have substantial incentives to report and request exogenous treatment only for those that might generate increases in the cap, not those that might justify reductions. We request comment on whether only cost changes that solely affect telephone companies or similar companies such as utilities should be eligible for exogenous cost treatment, and whether price cap LECs should be required to recognize all such changes consistently and to report such changes as part of their required tariff filings. Also, we request comment on whether we should adopt an administrative process to allow access customers or other groups to request exogenous treatment for cost changes.

66. Accordingly, based on our experience with the exogenous cost change rules, we solicit comment on the following issues:

Baseline Issue 6a: Whether the number of cost changes currently eligible for exogenous treatment under price caps should be reduced.

Baseline Issue 6b: If so, which cost changes should be eligible for exogenous treatment under price caps.

Baseline Issue 6c: Whether we should adopt an administrative process to allow access customers or other groups to request cost changes eligible for exogenous treatment and, if so, what should be the procedures in such an administrative process?

Baseline Issue 7: Service Quality, Infrastructure Monitoring, and Network Reliability

i. Background

67. In the LEC Price Cap Order, the Commission stated that it was committed to assuring the availability of high-quality, innovative communications services, and to the development of the telecommunications infrastructure needed to provide these services.⁹⁰ The Commission also stated that price cap regulation would encourage the LECs in network modernization, advanced applications, and new services. In considering suggestions that the implementation of price cap regulation for LECs could create cost-cutting incentives that might lead to degraded service and diminished investment in network modernization, we reaffirmed our belief that price cap regulation would increase the LECs' incentive and opportunity to develop and introduce new services, to invest in new technology like ISDN and SS7, to innovate, and to upgrade their networks. Further,

⁹⁰ LEC Price Cap Order, 5 FCC Rcd at 6827.

we stated that the carriers would be unlikely to jeopardize their network infrastructure, because it is their primary asset and is critical to their continued financial stability.⁹¹ Nonetheless, recognizing the need to ensure continued high quality service to ratepayers and our inability to predict with certainty the behavior of carriers operating under the price cap regulatory scheme, we decided to expand our monitoring of service quality and infrastructure development significantly to make sure that this goal was met.⁹² We stated that increased monitoring would "enhance our ability to evaluate the price cap system and . . . ensure that the incentives created in the plan operate in the public interest."⁹³

68. The Commission therefore determined that all price cap LECs would be required to file quarterly service quality reports, and that mandatory price cap LECs would also be required to file semi-annual service quality reports and annual infrastructure reports.⁹⁴ Under delegated authority, the Common Carrier Bureau established specific service quality and infrastructure reporting requirements⁹⁵ that "balance the need for data that will accurately reflect trends in service quality and infrastructure development with our goal of minimizing the administrative costs of LECs."⁹⁶

69. In addition to LEC price cap service quality and infrastructure monitoring, the Commission has acted to assure network reliability by all carriers. Specifically, the Commission adopted rules requiring local exchange or interexchange common carriers operating either transmission or switching facilities to notify the Commission within 90 minutes if they experience service outages potentially affecting 50,000 or more customers

⁹¹ LEC Price Cap Order, 5 FCC Rcd at 6827.

⁹² LEC Price Cap Order, 5 FCC Rcd at 6827, 6829, aff'd LEC Reconsideration Order, 6 FCC Rcd at 2717-2719; see also LEC Price Cap Order, 5 FCC Rcd at 6827 (the Commission observed that state monitoring programs will "provide another layer of protection against degradation of service quality by the price cap LECs."); see also LEC Price Cap Order, 5 FCC Rcd at 6830 (the Commission stated that access competition would provide LECs with the impetus to develop their infrastructure).

⁹³ LEC Price Cap Order, 5 FCC Rcd at 6789; see also id. at 6830 ("In addition to the monitoring mechanisms . . . tariff filings, ARMIS reports, and the complaint process . . . [will] show service quality and infrastructure development.").

⁹⁴ LEC Price Cap Order, 5 FCC Rcd at 6827-39.

⁹⁵ See Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Memorandum Opinion and Order, 6 FCC Rcd 2974 (Com.Car.Bur. 1991) (Service Quality Order), modified, 6 FCC Rcd 4819 (Com.Car.Bur. 1991), further modified, Public Notice, Adjustments to Price Cap Carriers' Service Quality and Infrastructure Reports in ARMIS, 7 FCC Rcd 3590 (released Mar. 31, 1992), further modified, Public Notice, Modifications to Service Quality Infrastructure Reporting, 7 FCC Rcd 4632 (released July 7, 1992), modified, Public Notice, ARMIS Filing Requirements, 7 FCC Rcd 8795 (Com.Car.Bur., released Dec. 15, 1992) and Erratum, DA 92-1696 (Com.Car.Bur.; released Dec. 18, 1992), further modified, 8 FCC Rcd 7259 (Com.Car.Bur. 1993) (Modified Service Quality Order).

⁹⁶ Service Quality Order, 6 FCC Rcd at 2976.

and lasting 30 or more minutes.⁹⁷ The Commission investigates all such reported outages. The Commission has thus laid the foundation for systematic and comprehensive approaches to resolving outage problems. Also, the Commission chartered the Network Reliability Council (NRC) to provide the Commission and the industry with recommendations on how public telephone network outages can be avoided and, if they occur, how their impact can be minimized.⁹⁸ The NRC subsequently submitted recommendations which resulted in the Service Outage NPRM to amend the Section 63.100 outage reporting requirements.

ii. Current provisions

70. The quarterly service quality report includes information regarding installation and repair intervals for interexchange access and local service, trunk blockage, switch downtime, and service quality complaints filed with state or federal regulatory authorities.⁹⁹ We require price cap LECs to file their quarterly service quality reports by study area,¹⁰⁰ and to disaggregate data within the report by MSA and non-MSA for purposes of (1) local service installation and repair intervals, (2) switch downtime, and (3) service quality complaints.¹⁰¹ Also, we require price cap LECs to disaggregate switch downtime data by switch size (number of lines served), and to report fully switch downtimes of two minutes or more and to identify the individual switch involved in the incident. In addition, we require price cap LECs to disaggregate interexchange access installation and repair intervals data by special access and switched access.¹⁰² The semi-annual service quality report is filed by study area, and contains information concerning customer satisfaction, dial tone response and transmission quality.¹⁰³

71. The annual infrastructure report provides information relating to switching equipment, transmission facilities, LEC call set-up time, access lines in service, access line gain, and total gross capital expenditures.¹⁰⁴ We require the mandatory price cap

⁹⁷ Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions, 7 FCC Rcd 2010, 2010 (1992) (Service Outage Order), recons. denied and granted, CC Docket No. 91-273, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd 8517 (Service Outage NPRM) (1993); see also Section 63.100 of the Commission's Rules, 47 C.F.R. Section 63.100.

⁹⁸ See FCC News release, (released Dec. 13, 1991).

⁹⁹ Modified Service Quality Order, 8 FCC Rcd 7259, Attachment, FCC Report 43-05.

¹⁰⁰ A study area usually consists of a telephone company's service territory in a given state, although telephone companies occasionally have more than one study area in a particular state.

¹⁰¹ Modified Service Quality Order, 8 FCC Rcd 7259, Attachment, FCC Report 43-05.

¹⁰² Id.

¹⁰³ Modified Service Quality Order, 8 FCC Rcd 7259, Attachment, FCC Report 43-06.

¹⁰⁴ Modified Service Quality Order, 8 FCC Rcd 7259, Attachment, FCC Report 43-07.

LECs to file infrastructure reports by study area and to disaggregate switching equipment data by MSA and non-MSA. Id.¹⁰⁵

iii. Discussion

72. This NPRM offers a full opportunity for the Commission, assisted by the views of commenters, to consider whether we should take additional steps to assure that the LECs' service quality, network reliability, and infrastructure development remain at a high level. We therefore request comment on whether our service quality and network reliability monitoring requirements should be revised or clarified to assure they better serve their intended purpose. In particular, we request comment on whether our monitoring should be extended to facilities and services that may soon be interconnected with or provide capabilities similar to the local telephone network, e.g., wireless services and coaxial cable. Service quality monitoring should be responsive to changes in technology and customer needs. As price cap LECs use wireless services, coaxial cable, and other facilities and services to perform the same functions and meet the same needs as existing telephone facilities, it may be appropriate to expand our service quality monitoring accordingly. Comments that relate to issues being considered in the Service Outage FNPRM in CC Docket No. 91-273 should, however, be submitted in that docket.

Baseline Issue 7a: Whether the Commission should increase or revise the monitoring of the LECs' network reliability, service quality, and infrastructure development. Commenters are requested to submit data, information, and proposals in this inquiry that in their view will contribute to assuring state-of-the art reliability, service quality, and infrastructure development for the LECs. Commenters also are requested to submit data identifying the administrative and business costs associated with their proposals.

Baseline Issue 7b: Whether and if so how the Commission should expand its service quality monitoring to include price cap LEC facilities and services that may be interconnected with the local exchange network or used to provide similar capabilities, including wireless services and coaxial cable. Commenters are requested to submit specific data on the administrative and business costs associated with their recommendations on the reporting requirements.

¹⁰⁵ We require the LECs to file service quality and infrastructure reports in the Automated Reporting Management Information System (ARMIS) format. In the ARMIS Order, the Commission established an automated system for collecting from the Tier 1 LECs the financial and operating data necessary for the Commission to administer its accounting, separations, and access rules. See Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67, and 69 of the FCC's Rules), CC Docket No. 86-182, Report and Order, 2 FCC Rcd 5770 (1987), modified on recon., 3 FCC Rcd 6375 (1988) (ARMIS Order).

Baseline Issue 8: Rates and Regulations for New Services

i. Background

73. One of the Commission's primary objectives in adopting the LEC price cap rules was to provide carriers with incentives to become more innovative in the development and introduction of new, high quality services.¹⁰⁶ To advance this goal, while continuing to assure reasonable rates and terms, we established a special set of requirements for the introduction of "new services" intended to provide LECs with the flexibility to price efficiently and the incentive to innovate. There is evidence to suggest, however, that it may be necessary to revisit our new services requirements to determine: (1) whether these rules impose unnecessary regulatory impediments to the development and introduction of new services and, (2) if so, whether, and how, we should modify our rules to ensure that they support our goal of encouraging vigorous development of new and innovative services.

ii. Current provisions

74. The LEC Price Cap Order defines new services as services that add to the range of options already available to customers. A new service may, but need not, include a new technology or functional capability.¹⁰⁷ New services are not included under the price cap indices until the first annual price cap tariff filing after the completion of the base year in which the new service becomes effective.¹⁰⁸

75. Under our current rules, tariff filings proposing new services that will be subject to LEC price caps must be made on a least 45 days' notice¹⁰⁹ and be accompanied by "detailed cost support[.]"¹¹⁰ Specifically, a LEC introducing a new service is required to submit engineering studies, time and wage studies, or other cost accounting studies identifying the direct costs of providing the new service.¹¹¹ Cost support accompanying a LEC new service tariff filing must include: (1) a study containing a projection of costs for a representative 12-month period, (2) estimates of the effect of the new service on

¹⁰⁶ LEC Price Cap Order, 5 FCC Rcd 6786 at 6790, 6792, 6827, 6829.

¹⁰⁷ Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6824, and Erratum, 5 FCC Rcd 7664 (1990) (LEC Price Cap Order), modified on recon., 6 FCC Rcd 2637 (1991) (Part 69 ONA Order), further modified, 6 FCC Rcd 4524 (1991) (Part 69 ONA Order), clarified and modified on second further recon., 7 FCC Rcd 5235 (1992) (Second Further Reconsideration), further recon. pending.

¹⁰⁸ LEC Price Cap Order, 5 FCC Rcd at 6824.

¹⁰⁹ Id. at 6825.

¹¹⁰ Part 69 ONA Order, 6 FCC Rcd at 4524.

¹¹¹ Id. at 4531; see also Second Further Reconsideration, 7 FCC Rcd at 5237 (the Commission states that the requirements that price exceeds direct costs will prevent predatory pricing).

traffic and revenues, including the traffic and revenues of other services, and (3) supporting workpapers for estimates of costs, traffic, and revenues.¹¹² As part of the justification for the price selected for the new service, LECs may include an explanation of the need to earn "a risk premium" on investments in unusually risky new services.¹¹³ A LEC seeking a risk premium must include an explanation of the methodology used to calculate the premium and the projected overall return for the service.¹¹⁴

76. To derive the overall price of the new service, LECs add a "reasonable" level of overhead costs.¹¹⁵ LECs may load overhead on new services in a non-uniform manner, provided that LECs justify the deviations from uniform loadings.¹¹⁶ Where a LEC develops a lower cost version of an existing service, the LEC's need to price the service so that the LEC breaks even would be an acceptable justification for non-uniform loadings.¹¹⁷ Further, non-uniform overhead loadings are presumptively reasonable whenever a LEC uses them to justify the introduction of a new service at a level below the imputed "old" price of a substitutable service.¹¹⁸ To support their overhead cost loadings, LECs are required to include in their new service tariff filings the ratios of direct unit cost to unit investment and direct unit cost to unit price.¹¹⁹

iii. Discussion

77. Ameritech states that our new services rules do not encourage innovation but, instead, impede and discourage the introduction of new services, reduce the LECs'

¹¹² Part 69 ONA Order, 6 FCC Rcd at 4531.

¹¹³ Part 69 ONA Order, 6 FCC Rcd at 4531; see also Second Further Reconsideration, 7 FCC Rcd at 5237 ("[A risk premium is] defined as the additional rate of return a LEC needs to justify the development of a particularly risky new service.").

¹¹⁴ Part 69 ONA Order, 6 FCC Rcd at 4531; see also id. ("To satisfy their burden of proof, carriers must provide evidence of comparably risky undertakings by firms in relevant industries, together with the cost of capital associated with the undertakings."); see also id. ("LECs should also include an on-the-record showing of the following information: (1) research and development expense and investment for the new venture; (2) marketing expense; (3) the type and functions of any new technologies employed; (4) an explanation of the method by which projected demand has been derived; and (5) any special elements of risk.").

¹¹⁵ Part 69 ONA Order, 6 FCC Rcd at 4531.

¹¹⁶ Part 69 ONA Order, 6 FCC Rcd at 4531.

¹¹⁷ Second Further Reconsideration, 7 FCC Rcd at 5236.

¹¹⁸ Second Further Reconsideration, 7 FCC Rcd at 5237. Consequently, LECs may price lower-cost versions of existing services at any level below the price of the existing service. Id.

¹¹⁹ Part 69 ONA Order, 6 FCC Rcd at 4531. Our decision to adopt a flexible cost-based upper bound, which permits both non-uniform overhead loadings and risk premiums, was designed, in part, to "encourage[] LECs to develop improved versions of existing services and risky new innovative services[.]" Second Further Reconsideration, 7 FCC Rcd at 5235.

ability to meet customer needs, and generate unreasonable filing costs for the LECs.¹²⁰ In particular, several LECs have noted that the cost support requirements are so burdensome that they unnecessarily delay the introduction of new services.¹²¹ Also, some LECs state that the 45-day notice period is so long that it inhibits them from responding to customer demands in a timely fashion.¹²² As a consequence, LECs argue that they are prevented from effectively competing in an increasingly competitive telecommunications marketplace.¹²³ The LECs observe that the expectation of delay and the inability to compete freely deter them from introducing new services and lower prices.¹²⁴ Therefore, they assert, customers suffer from the diminished range and quality of available new technology.¹²⁵

78. LECs also suggest that the price cap rules restrict the spectrum of available new services by controlling the prices LECs may charge for and the profit they may earn on new services.¹²⁶ They argue that the price cap rules, by limiting their ability to earn "above-normal" profits on successful new services, eliminate their incentive to incur the heavy costs which are involved in researching and developing new technology.¹²⁷ Further, LECs state that the cost support requirements for new services should be revised because the costs of and demand for new services are largely unknown.¹²⁸

79. Although new services have been introduced under price caps, we believe there is some merit to these contentions. The development of cost support information in the reporting requirements, and the delay associated with notice requirements and tariff review under the current rules do generate delay and increase the costs of introducing new services. They may also inhibit the LECs' ability to compete with services offered by CAPs. Moreover, the process of reviewing new service cost support is often difficult and controversial, involving estimates and projections of customer response. Achieving a balance between the goals of encouraging innovation and achieving reasonable rates is thus especially difficult for new services. Moreover, current rules largely rely on regulatory review to detect and correct new service problems. The rules seek to detect

¹²⁰ See, e.g., Ameritech Petition for Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region (Ameritech Petition), Appendix at A-22 to A-25; see also United States Telephone Association (USTA) Proposal for Streamlined Review of New Services (USTA Proposal) at 4.

¹²¹ See, e.g., Ameritech Petition, Appendix at A-23, A-24.

¹²² See, e.g., *id.* at A-23; see also USTA Proposal at 4.

¹²³ See, e.g., USTA Proposal at 4.

¹²⁴ See, e.g., *id.*

¹²⁵ See, e.g., *id.*

¹²⁶ See, e.g., Ameritech Petition, Appendix at A-22.

¹²⁷ See, e.g., Ameritech Petition, Supplemental Materials, Attachment 3 at 30.

¹²⁸ See, e.g., Ameritech Petition, Appendix at A-22.

unreasonably high or low rates, but fail to provide incentives for LECs to set new service rates at reasonable levels.

80. There are now several classes of services that the LECs may provide as new services, including access services subject to competition (e.g., special access), monopoly access services (e.g., electronic white pages and, in many cases, local switching), interconnection provided to competitors (e.g., expanded interconnection service), and interexchange services (e.g., intra-LATA interstate long distance services). During the past three years under price caps, the Commission has adopted expanded interconnection rules, which require the LECs to allow competitive access providers (CAPs) to interconnect with the LECs' networks. In the future, the LECs may be offering additional types and classes of new services, especially as they enter new service marketplaces. In marketplaces and geographic locations where LECs face some measure of actual or potential competition, LECs may have the incentive to price interconnection services their competitors buy unreasonably high, while pricing new services they offer in competition with CAPs, unreasonably low. In addition, LECs may have an incentive to price access services which face no competition unreasonably high.

81. Based on these considerations, we seek comment on whether the new services test should be modified. The twin, sometimes conflicting goals of the new services rules should be to encourage the introduction of new and innovative services and to ensure that the rates for new services are just and reasonable. We seek alternatives which will achieve our two goals, while reducing administrative burden for the LECs, the Commission, and other interested parties. For example, we seek comment on whether we should modify the new services test to reflect the several categories of services the LECs now offer. Specifically, we seek comment on whether we should adopt different tests or different levels of scrutiny for new access services subject to competition, new access services not subject to competition, and new interconnection services. Alternatively, we request comments on when structural or nonstructural (such as accounting safeguards) separation of new services might be required.

82. We also are interested in exploring ways to extend efficiency incentives to new services and thus provide a basis for reducing cost support requirements while improving the effectiveness of our review. For example, under the current rules, LECs file support for new service costs and, if the support is found to be acceptable, the rates are allowed to take effect. The rates are then automatically rolled into the applicable price cap basket index calculations in the next annual filing. In view of the uncertainty of new service demand projections, this may mean that the rates will turn out to be too high or too low when it is time to roll them into the appropriate price cap basket.

83. An alternative may be to defer some review of service costs until the time they are brought under price caps, at least for services that are initiated by the LECs themselves and do not present substantial issues of potential anti-competitive effects.¹²⁹ In light of our experience with the new services requirements under the LEC price cap

¹²⁹ For example, we would not expect to reduce initial support requirements for new services implementing Commission-mandated rule changes such as expanded interconnection.

rules, we solicit comment on this approach and on other possible approaches to improving our regulation of new services subject to price caps.

Baseline Issue 8a: Whether the LEC price cap new services requirements impose unnecessary regulatory impediments to the development and introduction of new services, with specific identification of what those impediments are and an assessment of their magnitude.

Baseline Issue 8b: Whether, and how, we should modify the LEC price cap new services procedures and cost support rules to ensure that these rules advance our goals of encouraging innovation and setting reasonable rates.

Baseline Issue 8c: Whether new services are available on an equal basis to all LEC customers. Whether we should revise the LEC price cap plan to ensure the universal availability of new services. How widely available have LECs made new services to their customers?

Baseline Issue 9: Equalization of Regulations for LECs and CAPs

i. Background and Current Provisions

84. Under the AT&T price cap plan, changes in the charges that AT&T pays for access to the LECs' networks are deemed exogenous and, therefore, result in an adjustment to the AT&T price cap indexes.¹³⁰ In the AT&T Price Cap Order and the AT&T Price Cap Order on Reconsideration, the Commission considered proposals by LECs that cost savings resulting from an AT&T decision to bypass the local network and cost changes in non-LEC access charges also be treated as exogenous costs.¹³¹ The LECs contended that all access costs should be treated alike and that excluding some forms of access from exogenous treatment creates a bias in favor of uneconomic bypass. The Commission determined, *inter alia*, that the small scale of CAP services and competition among the interexchange carriers would prevent any actual bias, and rejected the LECs' contention.¹³²

85. In the AT&T Price Cap Performance Report, the Commission again considered LEC proposals that the Commission treat LEC and other access charges similarly.¹³³ Noting that the only remaining AT&T services subject to price caps are in Basket 1 and that these services use LEC switched access almost exclusively, the Commission found "no evidence that including any *de minimis* CAP access in Basket 1

¹³⁰ Policy and Rules Concerning Rates for Dominant Carriers, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 3005 (1989) (AT&T Price Cap Order).

¹³¹ AT&T Price Cap Order, 4 FCC Rcd at 3020, 3029-30, *on recon.*, 6 FCC Rcd 665, 673-74 (1991) (AT&T Price Cap Order on Reconsideration).

¹³² *Id.*

¹³³ Price Cap Performance Review for AT&T, Report, 8 FCC Rcd 5165, 5168-69 (1993) (AT&T Price Cap Performance Report).

exogenous cost changes would affect AT&T's actual price cap indexes, and thus its incentives."¹³⁴ We therefore concluded that there was no basis for changing the rule for computing AT&T's exogenous access costs.¹³⁵ However, we stated that if we were to allow switched transport interconnection, "the current method of calculating AT&T's exogenous access costs may create an actual bias, and any negative effects of this bias on competition among access providers and on customers may outweigh the considerations that support the current rules."¹³⁶ Accordingly, we indicated that as switched transport competition develops, we would reexamine the rules for computing AT&T's exogenous access costs.

ii. Discussion

86. The Commission recently adopted rules requiring Tier 1 LECs,¹³⁷ except National Exchange Carrier Association (NECA) pool members, to provide expanded interconnection for switched transport services to all interested parties.¹³⁸ In light of our expectation that these measures requiring expanded interconnection for switched transport will increase competition and our concern that the rules for computing AT&T's exogenous access costs may create an actual bias as switched transport competition develops, we believe that it is appropriate to consider revising our rules to equalize the treatment of LEC and CAP access rates in the calculation of AT&T's exogenous access costs. Also, our expectation of increasing access competition leads us to believe that there might be other rules and policies relating to price cap regulation which should be revised to equalize our treatment of LECs and CAPs. Accordingly, we request comment on the following issues:

Baseline Issue 9a: Whether our current rules for computing AT&T's exogenous access costs should be revised to equalize the treatment of LEC and CAP access rates in the calculation of AT&T's exogenous access costs.

Baseline Issue 9b: Whether any other rules or policies that relate to LEC price cap regulation should be revised to equalize our treatment of LECs and CAPs, and if so, what the revised rules and policies should be.

¹³⁴ AT&T Price Cap Performance Report, 8 FCC Rcd at 5169.

¹³⁵ Id.

¹³⁶ Id.

¹³⁷ Tier 1 LECs are companies having annual revenues from regulated telecommunications operations of \$100 million or more for a sustained period of time. Commission Requirements for Cost Support Material to be Filed with 1990 Annual Access Tariffs, 5 FCC Rcd 1364, 1364 (Com.Car.Bur. 1990) (defining Tier 1 LECs using the criteria to define Class A companies in 47 C.F.R. Sections 32.11(a) and 32.11 (e)).

¹³⁸ See Expanded Interconnection with Local Telephone Company Facilities and Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Second Report and Order and Third Notice of Proposed Rulemaking, CC Docket No. 91-141, FCC 93-379, Transport Phase I and CC Docket No. 80-286, 8 FCC Rcd 7373 (1993).

Baseline Issue 10: Sales and Swaps of Exchanges

i. Background and current provisions

87. The Commission's rules governing mergers and acquisitions provide that when a rate-of-return company and a price cap company merge, or when one company acquires the other, the resulting company must file tariffs pursuant to price cap regulation within one year of the effective date of the transaction.¹³⁹ In the absence of this rule, a company might attempt improperly to shift costs from its price-cap affiliate to its rate-of-return affiliate, allowing the rate-of-return affiliate to earn more revenue (because of its greater revenue requirement) while generating greater earnings for the price cap affiliate without triggering the sharing mechanism.¹⁴⁰ Further, if a LEC were allowed to alternate between rate of return regulation and price cap regulation, "it could 'game the system' by building up a large rate base under rate of return regulation, then opt for price caps again and cut its costs to an efficient level."¹⁴¹ The Commission stated, however, that in some cases, the efficiencies created by the purchase and sale of one or two exchanges may outweigh the threat of "gaming the system." We therefore determined that "[s]uch cases might justify a narrow waiver of the all-or-nothing rule."¹⁴²

ii. Discussion

88. The Commission has granted several waivers of the price cap rules prohibiting sales and swaps that move exchanges out of price cap regulation. These

¹³⁹ LEC Price Cap Order, 5 FCC Rcd at 6821, affirmed on recon., LEC Price Cap Reconsideration Order, 6 FCC Rcd at 2706, affirmed on appeal, National Rural Telecom Association v. FCC, 988 F.2d 174 (D.C. Cir. 1993); see also Section 61.42(c)(2) of the Commission's Rules, 47 C.F.R. Section 61.42(c)(2). The merger and acquisition rule is ancillary to the "all-or-nothing," "permanent choice," and "depooling" rules under the LEC price cap plan. The all-or-nothing rule requires price cap LECs to convert all their cost affiliates (except their average schedule affiliates) to price cap regulation as well. LEC Price Cap Order, 5 FCC Rcd at 6819-6820, affirmed on recon., LEC Price Cap Reconsideration Order, 6 FCC Rcd 2637, affirmed on appeal, National Rural Telecom Association v. FCC, 988 F.2d 174 (1993). The permanent choice rule provides that a LEC's decision to elect price cap regulation is irrevocable. LEC Price Cap Order, 5 FCC Rcd at 6819, affirmed, National Rural Telecom Association v. FCC, 988 F.2d 174 (1993). Under the depooling rules, LECs and their affiliates are required to withdraw from the National Exchange Carrier Association (NECA) pools as a prerequisite to price cap participation. LEC Price Cap Order, 5 FCC Rcd at 6819. However, average schedule companies are allowed to remain in the NECA pools if they continue to operate as an average schedule company and "their depooling affiliate is depooling for the express purpose of changing from rate of return to price cap regulation." LEC Price Cap Order, 5 FCC Rcd at 6820.

¹⁴⁰ LEC Price Cap Reconsideration Order, 6 FCC Rcd at 2706.

¹⁴¹ LEC Price Cap Reconsideration Order, 6 FCC Rcd at 2706.

¹⁴² LEC Price Cap Reconsideration Order, 6 FCC Rcd at 2706 n.207. The Common Carrier Bureau has waived the rules governing mergers and acquisitions under price caps. See, e.g., US West Communications and Gila River Telecommunications Inc., 7 FCC Rcd 2161 (Com.Car.Bur. 1992); see also US West Communications, Inc. and Emery County Farmers' Union Telephone Association, 7 FCC Rcd 6076 (Com.Car.Bur. 1992).

transactions can, we believe, improve efficiency and service quality for example by permitting neighboring exchanges to share administrative costs. These transactions can also promote better infrastructure development by placing exchanges in control of another LEC whose business plan makes it more committed to developing improved service in the exchange. However, we are concerned that the waivers may increase access rates unnecessarily. A waiver that permits a price cap LEC to sell an exchange with relatively high costs and permits the new buyer to move the exchange back to cost-plus rate of return regulation, for example, may not reduce the price cap LEC's rates, but may permit higher, cost-based rates to be filed by the buyer. The transaction may also increase burdens on FCC support programs targetted to help small, high-cost exchanges such as Universal Service Fund subsidies (USF) or the triple weighting of Dial Equipment Minutes (DEMs) used for jurisdiction separations by small companies.¹⁴³ The expectation of obtaining a waiver might also generate unintended incentives, such as encouraging a price cap LEC to postpone modernizing high-cost exchanges that it can sell to a cost-based company. Although we believe that the waiver process should continue to be available for sales and swaps that make economic sense, we propose considering methods of preventing any unintended windfalls and transactions that artificially increase subsidies. These methods may include exogenous cost deductions for the amount of any increase in USF or CCL rates. We seek comment on whether waiver guidelines or restrictions are needed. We specifically solicit comments on whether the current policies associated with USF subsidies applicable to sales and swaps of exchanges are appropriate, and what policies for sales and swaps of price cap exchanges are most consistent with the goals of infrastructure development. We also ask to what extent current policies or modified policies will encourage infrastructure development and universal access.

89. Accordingly, in light of these concerns, we solicit comment on the following issue:

Baseline Issue 10: Whether, and how, the process for granting waivers of the price cap rules governing mergers and acquisitions or the price cap rules themselves should be revised so as to prevent unreasonable cost shifting and maintain the efficiency incentives of the LEC price cap plan.

Baseline Issue 11: Other Revisions to the Current LEC Price Cap Plan

90. This proceeding is intended to be a comprehensive review of LEC price caps. Commenters may also wish to suggest other revisions to the baseline plan in their comments. The comments should list and identify each such issue separately.

Baseline Issue 11: Whether the Commission should adopt revisions to the baseline LEC price cap plan in areas other than those specifically discussed in this Notice.

Baseline Issue 12: Relationship to Other Proceedings

91. The fourth-year review of LEC price caps is intended to be comprehensive in its analysis of the price cap plan, evaluating all aspects of LEC performance and any

¹⁴³ See Section 36.125 of the Commission's Rules, 47 C.F.R. Section 36.125.

adjustments of the plan that are warranted. Commenters should submit all data, information, and analysis relevant to LEC performance under price caps that they believe will help us in this review. They are also of course free to propose changes they believe will improve the plan. However, many of the issues that might affect the LEC price cap review overlap with other Commission proceedings, as well as with regulatory reform proposals already developed. A non-exhaustive list of these proposals includes proceedings to implement expanded interconnection, the transport rate restructuring proceeding, Ameritech's petition for a declaratory ruling to establish "a new regulatory model", Rochester Telephone's proposed "Open Market" Plan, NARUC's Petition for Notice of Inquiry Addressing Access Issues, and USTA's Petition for interstate access reform. We are not seeking comment on these proceedings or petitions in this docket, but it is likely that any decisions in this docket must be consistent with decisions made in other proceedings. We do request comment on how the Commission can best harmonize the review of LEC price caps with other proceedings and proposals.

Baseline Issue 12: How the Commission should coordinate the LEC price cap review and any changes in the LEC price cap plan with other proceedings and proposals.

D. Transitional Issues For Comment

92. While the price cap plan gives LECs greater incentives to operate efficiently and greater flexibility in setting rates, it does impose significant regulatory constraints upon carriers. Such constraints may become unnecessary or counterproductive when market forces generated by competition effectively assure reasonable, and not unreasonably discriminatory rates. Rate regulation in these circumstances may impede the incumbent carrier's ability to compete vigorously rather than protecting customers or achieving the other goals of the Communications Act. In the case of AT&T, for example, price caps proved to be a transitional form of regulation for many services, which have since moved from price caps into streamlined regulation as competition increased.

93. For the price cap LECs, technological changes and Commission decisions such as the requirement that the LECs provide expanded interconnection of their facilities with competitors', have laid a foundation for competition in the market for local exchange access services. The deployment of PCS services within the next few years may provide additional competition. Increased competition within local exchange areas now seems inevitable, even if the level of competition that will result cannot be predicted with any certainty and may differ where local market conditions differ.

94. This Commission has long sought to encourage full and fair competition in telecommunications markets, and we continue to believe that vigorous competition is generally better able to serve the public interest than a regulated monopoly. The LECs currently dominate the provision of access services. Regulatory oversight and rate regulation may be necessary to protect both customers and competitors of the price cap LECs until and unless effective competition occurs. On the other hand, price and service regulation of the LECs could unnecessarily restrict the LECs' ability to compete, and thus deny the full benefits of competition to consumers. We anticipate that, aided by the comments, our task in this proceeding will be to resolve these conflicting concerns in a way that best achieves the purposes of the Communications Act. For the present, we

propose no transition plan for price caps. Rather, we expect to use this proceeding to develop data and information relevant to fashioning a workable plan for revising the baseline price cap model as competition develops.

Transition Issue 1: Criteria for Reduced or Streamlined Regulation of Price Cap LECs

95. The most likely basis for applying more streamlined regulation to LECs is that the LECs' market power has been reduced, and competition has increased. To the extent that a LEC no longer controls essential, "bottleneck" facilities, regulations needed to protect against abuse of a monopoly may be unnecessary. Among the criteria for assessing LEC market power are the nature and extent of any barriers to market entry and exit (e.g., regulatory, economic, or technological obstacles), the existence of potential and actual competitors, the extent to which those competitors have the facilities to serve LEC customers, the willingness of customers to use competitors' services, and the competitors' market share. These criteria may differ in particular geographic locations or regions, possibly warranting different levels of regulation in different regions. The weight we would accord these criteria may differ for different services, or may be contingent on other events. We also may wish to consider the effects of the transition on other markets, for example, interexchange, video, and information. We request comment on the current state of competition in providing local exchange and interstate access, and the most relevant and useful criteria for determining when to adopt streamlined regulation and data relevant to such criteria.

Transition Issue 1a: What is the current state of competition for local exchange and interstate access?

Transition Issue 1b: What criteria if any should be used for determining when reduced or streamlined regulation for price cap LECs should take effect? For example, in determining whether a service is subject to sufficient competition to be moved from price cap regulation to reduced or more streamlined regulation, should the Commission take into consideration (1) the nature and extent of any barriers to market entry and exit (e.g., regulatory, economic, or technological obstacles), (2) the existence of potential and actual competitors and, if so, what role should the existence of potential and actual competition play in determining whether to reduce or streamline LEC price cap regulation, (3) the extent to which those competitors have the facilities to serve LEC customers, (4) the willingness of customers to use competitors' services and, if so, how should this criterion be measured, (5) the competitors' market share and, if so, how should the term "market" be defined, (6) pricing trends, (7) the effect of expanded interconnection, (8) differences in competition in different geographic locations or regions, and differences in demographic characteristics, such as whether services are available to all groups within a broad community or area, or (9) other factors.

Transition Issue 1c: In what circumstances will a LEC no longer control essential "bottleneck" facilities for some or all of its services? How will the Commission be able to identify these circumstances in practice?

Transition Issue 1d: What ability do CAPs and others have to compete with the LECs? What data indicate the level of actual and potential competition from CAPs and

other providers? For example, such data may include the CAPs' profit levels, stock price trends, revenues, or other measures which reflect the CAPs' ability to compete.

Transition Issue 1e: What impact should price cap LEC entry into related industries (e.g., cable TV) and BOC entry into inter-LATA marketplaces have on the LEC price cap plan?

Transition Issue 2: Transition Stages

96. Once the criteria for assessing LEC market power are established, the specific regulatory methods for reducing or eliminating price cap regulations would be set. These might include some combination of widening the price cap bands, moving specific baskets or services out of price caps, and reducing tariff filing requirements.

Transition Issue 2: What regulatory methods for reducing price cap regulation or streamlined regulation should be adopted for LEC services as those services become subject to greater competition?

Transition Issue 3: Revisions to Baskets

97. The speed with which effective competition develops is likely to differ among LEC baskets and services as it has among AT&T's. Interconnection is likely, for example, to bring competition for transport earlier than for local switching or common lines. This may imply a need for revising the baskets to group services with similar levels of competition or to set different schedules for reduced or streamlined regulation.

Transition Issue 3: Whether and how the Commission should schedule revisions in the composition of price cap baskets as local exchange access competition develops. Should the Commission adopt a set of procedures that would rebalance baskets in response to specified changes in market conditions?

Transition Issue 4: Service Quality, Network Reliability, and Infrastructure

98. Competition in local exchange access services is likely to develop unevenly. This in turn may encourage price cap LECs to direct repair, maintenance, introduction of new services and features, and other efforts toward downtown businesses and affluent residential customers. Inner cities, rural areas, and the less well-off might see fewer benefits from competition, or even declines in service quality. These potential effects of competition may warrant revising the LEC price cap monitoring program as part of any transition plan.

Transition Issue 4: Whether and how the Commission should revise its monitoring of LEC service quality, network reliability, and infrastructure as part of any transition plan.

Transition Issue 5: Frequency of Review under Price Cap Regulation

99. Our approach to keep abreast of the transitional regulatory changes that might be needed in the years ahead might be to review the LEC price cap plan more often than every fourth year. For example, a review might be completed every second year, or every year, possibly limited to issues of the level of competition that has developed and whether competition warrants moving services into other baskets or streamlined regulation. However, more frequent review may raise other concerns. In addition to the administrative burdens, frequent review might undermine the price cap efficiency incentives, if LECs perceived that any profits they stand to gain from undertaking projects to increase long term efficiency might be eliminated by the Commission at the review stage. Alternatively, the Commission might monitor and report on LEC price cap plan performance regularly, in order to evaluate when revisions to the plan or additional transitional steps should be implemented.

Transition Issue 5: When should the Commission next review the price cap LECs' performance? How frequently should the Commission conduct subsequent reviews?

Transition Issue 6: Other Transition Issues

100. There are likely to be other issues that may be relevant to developing an effective transition plan. We invite comment and analysis on such issues.

Transition Issue 6: Whether and how the Commission should adopt changes in rules and policies other than those specifically mentioned in this Notice as part of a LEC price cap transition plan.

IX. PROCEDURAL MATTERS

101. This review will be conducted as a non-restricted notice and comment rulemaking. See 47 C.F.R. Section 1.399 *et seq.*

102. All relevant and timely comments and reply comments will be considered by this Commission. In reaching our decision, this Commission may take into account information and ideas not contained in the comments, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of this Commission's reliance on such information is noted in the Order.

Regulatory Flexibility Act

103. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Carriers subject to price cap regulation for local exchange access services affected by the rule amendments

under consideration generally are large corporations or affiliates of such corporations. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 et seq. (1981).

Electronic Filings and Docket Database

104. In the AT&T performance review, we requested that commenters submit copies of their comments on IBM PC compatible diskettes as a test of methods to improve the ability of the Commission and the public to review and evaluate the data and information submitted in the docket. Many of the commenters in that proceeding submitted their comments on diskettes and these comments were included in a data base in the Common Carrier Bureau Industry Analysis Division Bulletin Board. This data base was of value in that proceeding, but we encountered some problems in making the data base as useful as it might have been. Not all commenters submitted their filings on diskettes and the diskettes were generated by several different, incompatible software programs. We believe that an improved data base should be even more useful for this proceeding, which affects more carriers and, perhaps, more complex issues. We delegate authority to the Common Carrier Bureau to establish procedures to establish a useful computerized public data base for this proceeding, and as a further test of methods to improve the Commission's notice and comment procedures.

Ex Parte Rules - Non-Restricted Proceeding

105. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 C.F.R. Sections 1.1202, 1.1203, and 1.1206(a).

X. ORDERING CLAUSES

106. Accordingly, IT IS ORDERED that NOTICE IS HEREBY GIVEN OF the rulemaking described above and that COMMENT IS SOUGHT on these issues.

107. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in Section 1.399 and 1.411 et seq. of the Commission's Rules, 47 C.F.R. Sections 1.399, 1.411 et seq., comments SHALL BE FILED with the Secretary, Federal Communications Commission, Washington, D.C. 20554 on or before April 18, 1994, and reply comments SHALL BE FILED on or before May 17, 1994. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, parties should file two copies of any such pleading with the Tariff Division, Common Carrier Bureau, Room 518, 1919 M Street, N.W., Washington, D.C. Parties should also file one copy of any documents filed with this Commission's copy contractor, International Transcription Service, Inc., Room 246, 1919 M Street N.W., Washington, D.C. 20554.

Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

108. IT IS FURTHER ORDERED that this proceeding will also be a test of methods to improve Commission notice and comment procedures through computer-based filing and docket management approaches. The Commission directs the Chief, Common Carrier Bureau to issue notices and orders necessary to implement this test. We also request the views of interested parties on ways to use computers to improve filing procedures as part of the comment in this proceeding. The Commission strongly urges interested parties to participate in this test.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
William F. Caton
Acting Secretary

SEPARATE STATEMENT
OF
COMMISSIONER ANDREW C. BARRETT

RE: Price Cap Performance Review for Local Exchange Carriers

In this Notice of Proposed Rulemaking ("Notice"), the Commission begins the fourth year review of the performance of the local exchange carriers (LECs) under price cap regulation. More specifically, the Notice seeks comment on several "baseline" issues regarding potential ways to improve the existing LEC price cap plan, including: (1) potential modifications to the composition of the price cap baskets and bands, (2) possible changes in the productivity factor, (3) whether to amend the rate of return thresholds triggering the sharing mechanism, (4) whether the Commission should reconsider the application of the formula for common line charges, and (5) changes in the definition of circumstances that could warrant "exogenous cost" treatment. In addition, the Notice seeks comment on issues related to a transition to a more streamlined means of regulating the LECs.

The Commission must remain aware of the pending public policy issues -- especially pending legislation that would eliminate regulatory obstacles to competition in local exchange markets -- as we prepare to evaluate the comments that result from this Notice.¹ As we consider potential modifications to the LEC price cap mechanism, as well as today's attendant action to adopt revisions in the baskets and bands to create a new "trunking" basket that combines the transport and special access services,² the Commission begins the critical steps of moving beyond traditional price cap regulation. Indeed, the revisions to the price cap baskets will create appropriate groupings of the transport and special access services that use similar facilities and are subject to similar competitive pressures. This action could facilitate decisions in the future that will allow the Commission to significantly modify or eliminate the LEC price cap mechanism in response to the evolution of competitive markets for special access and transport services.

In this review of the LECs' performance under price caps, I am interested in considering how the Commission may facilitate movement toward a regulatory framework for the local exchange carrier industry that will more realistically reflect the industry's unique and rapidly changing structure, costs, and investment needs. At the same time, I am concerned that the regulatory mechanism must provide incentives for telephone companies to invest in more risky

¹ See H.R. 3626, sponsored by Rep. Jack Brooks and Rep. John D. Dingell; H.R. 3636, sponsored by Rep. Edward J. Markey and Rep. Jack Fields; S. 1086, sponsored by Sen. John C. Danforth and Sen. Daniel K. Inouye. For a brief comparison of the various legislative proposals, see Broadcasting & Cable, January 3, 1994, at 51.

² See Second Report and Order, CC Docket No. 91-213, adopted January 19, 1994.

endeavors in the marketplace while requiring that the companies bear the burdens associated with the increased risks rather than subsidizing the new endeavors at the expense of customers who do not want such services.³ Presently, I do not believe that we are at a point where the public can rely on the market to set prices for all services, especially with respect to services provided to residential areas. Yet, I do believe that rapid changes in the local exchange marketplace will underscore the importance of transitioning toward a streamlined regulatory structure where sources of competition are evident in the local marketplace. Thus, I believe we must begin the transition, where possible in specific services, toward reducing the Commission's link between prices and earnings on a rate base. I also am interested in specific comments as to how the Commission can allow more pricing flexibility based on a correlation to cost in markets where competition has developed.

With these considerations in mind, I especially am interested in comments on several issues raised in this Notice. First, it is imperative to develop specific criteria for identifying competition for particular services, as well as to establish thresholds that might trigger the transitional regulatory mechanisms. In doing so, I am concerned that we determine how to monitor the extent that equal levels of service are available throughout all regions and to all demographic groups of a broad community. Next, given the LECs' recent history of downsizing in order to increase efficiency,⁴ I am interested in the extent to which a revised price cap or transitional regulatory mechanism could result in net benefits to future economic development, perhaps through additional jobs or market opportunities for the LECs in other areas of business, or new market opportunities for third parties. Thus, I particularly am interested in specific comments regarding the types of jobs or market opportunities that have been created since the LECs have operated under the price caps. Finally, I am interested in the extent to which our expanded interconnection rules and the LEC price cap structure will promote network quality and efficiency of service in the local exchange marketplace.

³ See "Beyond Price Caps: Escaping the Traditional Regulatory Framework," Commissioner Andrew C. Barrett, Federal Communications Commission, delivered before Florida Economic Club, August 27, 1992 (on file in the Office of Commissioner Andrew C. Barrett).

⁴ See "Tightening Their Belts", Telephony, December 20, 1993, at 12 (detailing statistics for downsizing by Bell regional holding companies between 1984 and 1992).